S.B. Civil Writ Petition No.404/05
Mahesh Sewa Samiti
Vs.
Raj. Non-Government Educational Institutions Tribunal & Ors.

Date of Order : 24/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. R.C. Joshi, for petitioner

Instant petition has been filed against the order Ex.3 dt.16th November, 2004 passed by the Non-Government Educational Tribunal whereby respondent employee has been directed to be paid gratuity and so also encashment of leave to which he is entitled for under the rules.

Counsel for petitioner has not disputed entitlement of the respondent employee for relief which the Tribunal under the order impugned has granted to him.

Counsel submits that petitioner is a 70% aided institution and towards payment of retiral dues including selection scale which the employee is entitled for, Government is under an obligation to part with qua the aid received by the petitioner and the institution was always willing to pay so far as their contribution of 30% is concerned, but since the Government has not come forward to make payment towards their contribution of 70%, the actual payment of the employee could not have been made. Counsel further submits that Government has raised objection that the employee is not entitled for with regard to benefits which the Tribunal has ordered under the order impugned.

In my opinion, submission made by the counsel is devoid of merit for the reason that so far as entitlement part is concerned, it has been put to rest by the judgment of this court and affirmed by the apex court holding that the employee is entitled for gratuity, selection scale and so also encashment of leave under the relevant rules and this has also not been disputed by the counsel for petitioner as well.

So far as contribution towards share of the State Government is concerned, suffice it to say that when the petitioner has failed to make payment of retiral dues to a retired personnel in the absence whereof, the petitioner is not entitled to claim any contribution from the Government if at all entitled for under law. However, I may observe that if such applications are filed before the State Government, the same will be considered in accordance with law. I find no error in the order impugned.

Consequently, the writ petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB